

CHAPTER 145**INSURANCE AND OTHER MATTERS
REGULATED BY THE INSURANCE DIVISION***H.F. 723*

AN ACT relating to various matters under the purview of the insurance division of the department of commerce including the uniform securities Act; insurance division; articles of incorporation filing requirements; viatical settlements contracts; life insurance companies and associations; long-term care insurance; long-term care asset disregard incentives; insurance other than life; insurance guaranty association; county mutual insurance associations; state mutual insurance associations; consolidation, merger, and reinsurance; and cemetery and funeral merchandise and funeral services; and providing for an immediate effective date and retroactive applicability.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 249A.35, Code 2009, is amended to read as follows:

249A.35 PURCHASE OF ~~CERTIFIED~~ QUALIFIED LONG-TERM CARE INSURANCE POLICY — COMPUTATION UNDER MEDICAL ASSISTANCE PROGRAM.

A computation for the purposes of determining eligibility under this chapter concerning an individual who is the beneficiary of a ~~certified~~ qualified long-term care insurance policy under chapter 514H shall include consideration of the asset disregard provided in section 514H.5.

Sec. 2. Section 502.409, subsection 1, Code 2009, is amended to read as follows:

1. WITHDRAWAL OF REGISTRATION. Withdrawal of registration by a broker-dealer, agent, investment adviser, or investment adviser representative becomes effective sixty days after the filing of the application to withdraw or within any shorter period as provided by rule adopted or order issued under this chapter unless a revocation or suspension proceeding is pending when the application is filed. If a proceeding is pending, withdrawal becomes effective when and upon such conditions as required by rule adopted or order issued under this chapter. The administrator may institute a ~~revocation or suspension proceeding~~ disciplinary action under section 502.412, ~~including an action to revoke, suspend, condition, or limit the registration of a registrant, censure, impose a bar, or impose a civil penalty,~~ within one year after the withdrawal became effective automatically and issue a revocation or suspension ~~disciplinary~~ order as of the last date on which registration was effective if a proceeding is not pending.

Sec. 3. Section 505.8, subsection 6, Code 2009, is amended to read as follows:

6. The commissioner shall provide assistance to the public and to consumers of insurance products and services in this state.

a. The commissioner shall accept inquiries and complaints from the public regarding the business of insurance. The commissioner or the commissioner's designee may respond to inquiries and complaints, and may examine or investigate such inquiries and complaints to determine whether laws in this subtitle and rules adopted pursuant to such laws have been violated.

~~a.~~ b. The commissioner shall establish a bureau, to be known as the "consumer advocate bureau", which shall be responsible for ensuring fair treatment of consumers by persons in the business of insurance and for preventing unfair or deceptive trade practices in the insurance marketplace and by persons under the jurisdiction of the commissioner.

~~b. (1)~~ The commissioner, with the advice of the governor, shall appoint a consumer advocate who shall be knowledgeable in the area of insurance and particularly in the area of consumer protection. The consumer advocate shall be the chief administrator of the consumer advocate bureau.

~~c. (2)~~ The consumer advocate bureau shall may receive and may investigate consumer

complaints and inquiries from the public, and ~~shall~~ may conduct investigations to determine whether any person has violated any provision of the insurance code, including chapters 507B and 522B, and any provisions related to the establishment of insurance rates.

~~d. When necessary or appropriate to protect the public interest or consumers, the consumer advocate may request that the commissioner conduct administrative hearings as provided in section 505.29.~~

~~e. (3)~~ The consumer advocate bureau shall perform other functions as may be assigned to it by the commissioner related to consumer advocacy.

~~f. (4)~~ The consumer advocate bureau shall work in conjunction with other areas of the insurance division on matters of mutual interest. The insurance division shall cooperate with the consumer advocate in fulfilling the duties of the consumer advocate bureau. The consumer advocate may also seek assistance from other federal or state agencies or private entities for the purpose of assisting consumers.

~~(5) When necessary or appropriate to protect the public interest or consumers, the consumer advocate may request that the commissioner conduct rate filing reviews as provided in section 505.15 or administrative hearings as provided in section 505.29.~~

~~g. (6)~~ The commissioner, in cooperation with the consumer advocate, shall prepare and deliver a report to the general assembly by January 15 of each year that contains findings and recommendations regarding the activities of the consumer advocate bureau including but not limited to all of the following:

~~(1) (a)~~ An overview of the functions of the bureau.

~~(2) (b)~~ The structure of the bureau including the number and type of staff positions.

~~(3) (c)~~ Statistics showing the number of complaints handled by the bureau, the nature of the complaints including the line of business involved and their disposition, and the disposition of similar issues in other states.

~~(4) (d)~~ Actions commenced by the consumer advocate.

~~(5) (e)~~ Studies performed by the consumer advocate.

~~(6) (f)~~ Educational and outreach efforts of the consumer advocate bureau.

~~(7) (g)~~ Recommendations from the commissioner and the consumer advocate about additional consumer protection functions that would be appropriate and useful for the bureau or the insurance division to fulfill based on observations and analysis of trends in complaints and information derived from national or other sources.

~~(8) (h)~~ Recommendations from the commissioner and the consumer advocate about any needs for additional funding, staffing, legislation, or administrative rules.

~~c. When necessary or appropriate to protect the public interest or consumers, the commissioner may conduct, or the commissioner's designee may request that the commissioner conduct administrative hearings as provided in this subtitle.~~

~~d. The commissioner may adopt rules for the administration of this subsection.~~

Sec. 4. Section 505.15, subsection 2, Code 2009, is amended to read as follows:

2. The commissioner may retain, ~~or the commissioner's designee may request that the commissioner retain,~~ attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals or specialists to assist the division ~~or the consumer advocate bureau~~ in carrying out its duties in regard to rate filing reviews. The reasonable cost of retaining such professionals and specialists shall be borne by the insurer which is the subject of the rate filing review.

Sec. 5. Section 508.2, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

508.2 ARTICLES — APPROVAL — BYLAWS.

The articles of incorporation, and any subsequent amendments, of a company shall be filed with and approved by the commissioner of insurance before filing with the secretary of state. A company shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of adoption of the bylaws and amendments.

Sec. 6. Section 508E.3, subsection 1, paragraph b, subparagraphs (1) and (2), Code 2009, are amended to read as follows:

(1) A life insurance producer who has been duly licensed as a resident insurance producer with a life line of authority in this state or the life insurance producer's home state for at least one year immediately prior to operating as a viatical settlement broker and is licensed as a non-resident producer in this state shall be deemed to meet the licensing requirements of this section and shall be permitted to operate as a viatical settlement broker.

(2) Not later than thirty days from the first day of operating as a viatical settlement broker, the life insurance producer shall notify the commissioner that the life insurance producer is acting as a viatical settlement broker on a form prescribed by the commissioner, and shall pay any applicable fee of up to one hundred dollars as provided by rules adopted by the commissioner. The notification shall include an acknowledgment by the life insurance producer that the life insurance producer will operate as a viatical settlement broker in accordance with this chapter. The notification shall also include proof that the life insurance producer is covered by an errors and omissions policy for an amount of not less than one hundred thousand dollars per occurrence and not less than one hundred thousand dollars total annual aggregate for all claims during the policy period.

Sec. 7. Section 508E.3, subsections 3 and 9, Code 2009, are amended to read as follows:

3. ~~A The license may be renewed from year to year on the anniversary date term shall be three years and the license may be renewed~~ upon payment of the annual renewal fee of not more than one hundred dollars as provided by rules adopted by the commissioner. A failure to pay the fee by the renewal date results in expiration of the license.

9. An individual licensed as a viatical settlement broker shall complete on a ~~biennial basis fifteen hours~~ triennial basis running concurrent with the license term twenty credits of training related to viatical settlements and viatical settlement transactions, as required by the commissioner; provided, however, that a life insurance producer who is operating as a viatical settlement broker pursuant to subsection 1, paragraph "b", shall not be subject to the requirements of this subsection. Any person failing to meet the requirements of this subsection shall be subject to the penalties imposed by the commissioner.

Sec. 8. Section 511.8, subsection 18, paragraph b, Code 2009, is amended to read as follows:

b. Common stocks or shares in a subsidiary corporation, the acquisition or purchase of which is authorized by section 508.33 are eligible if the total investment in these stocks or shares does not exceed five percent of the legal reserve; ~~provided, however, that common stocks or shares of stock in a direct or indirect subsidiary insurance company which is domiciled in the United States are eligible up to an additional two percent of the legal reserve upon application by the insurer to and upon approval by the commissioner. Stocks or shares of the insurer's subsidiary corporations are not eligible in total in excess of seven percent of the legal reserve and the stock or shares of any one subsidiary corporation are not eligible in excess of five percent of the legal reserve.~~ These stocks or shares are eligible even if the stocks or shares are not listed or admitted to trading on a securities exchange in the United States and are not publicly held and have not been traded in the "over-the-counter market". The stocks or shares shall be valued at their book value; ~~provided, however, that stocks or shares of a direct or indirect subsidiary insurance company held in the legal reserve of up to an additional two percent of the legal reserve shall be valued at their statutory book value, excluding approved permitted practices.~~

Sec. 9. Section 512A.10, subsection 1, Code 2009, is amended by striking the subsection and inserting in lieu thereof the following:

1. The articles of incorporation, and any subsequent amendments, of an organization shall be filed with and approved by the commissioner of insurance before filing with the secretary of state. An organization shall file bylaws and subsequent amendments to bylaws with the commissioner within thirty days of adoption of the bylaws and amendments.

Sec. 10. Section 514B.3A, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

514B.3A ARTICLES — APPROVAL — BYLAWS.

The articles of incorporation, and any subsequent amendments, of a corporation shall be filed with and approved by the commissioner of insurance before filing with the secretary of state. A corporation shall file bylaws and subsequent amendments to the bylaws with the commissioner within thirty days of adoption of the bylaws and amendments.

Sec. 11. Section 514G.102, Code 2009, is amended to read as follows:

514G.102 SCOPE.

The requirements of this chapter apply to policies delivered or issued for delivery in this state on or after July 1, 2008. The requirements of this chapter related to independent review of benefit trigger determinations apply to all claims made on or after January 1, 2009. This chapter is not intended to supersede the obligations of entities subject to this chapter to comply with the substance of other applicable insurance laws not in conflict with this chapter, except that laws and regulations designed and intended to apply to Medicare supplement insurance policies shall not be applied to long-term care insurance.

Sec. 12. Section 514G.104, Code 2009, is amended to read as follows:

514G.104 EXTRATERRITORIAL JURISDICTION — GROUP LONG-TERM CARE INSURANCE.

Group long-term care insurance coverage shall not be offered to a resident of this state under a group policy issued in another state unless either this state or another state with statutory and regulatory requirements for long-term care insurance that are substantially similar to those adopted in this state has made a determination that the group to which the policy is issued meets the requirements of section 514G.103, subsection 9, paragraph “d”.

Sec. 13. Section 514H.1, subsection 1, Code 2009, is amended by striking the subsection and inserting in lieu thereof the following:

1. “Deficit Reduction Act of 2005” means section 6021(a)(1)(A) of Public Law 109-171 as it pertains to the expansion of state long-term care insurance partnership programs.

Sec. 14. Section 514H.1, Code 2009, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. “Qualified long-term care insurance policy” means a long-term care insurance contract that is issued by an insurer or other person who complies with section 514H.4.

NEW SUBSECTION. 5. “Qualified state long-term care insurance partnership” means an approved state plan amendment, according to the Deficit Reduction Act of 2005 that provides for the disregard of any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary.

Sec. 15. Section 514H.2, subsection 2, Code 2009, is amended to read as follows:

2. The insurance division of the department of commerce shall administer the program in cooperation with the division responsible for medical services within the department of human services. Each agency shall take ~~appropriate action to maintain the waiver granted by the centers for Medicare and Medicaid services of the United States department of health and human services under 42 U.S.C. § 1396 relating to providing medical assistance under chapter 249A, in effect prior to November 17, 2005~~ all necessary actions, including filing an appropriate medical assistance state plan amendment to the state Medicaid plan to take full advantage of the benefits and features of the Deficit Reduction Act of 2005.

Sec. 16. Section 514H.3, Code 2009, is amended to read as follows:

514H.3 ELIGIBILITY.

An individual who is the beneficiary of a ~~certified~~ qualified long-term care insurance policy approved by the insurance division may be eligible for assistance under the medical assistance program using the asset disregard provisions pursuant to section 514H.5.

Sec. 17. Section 514H.4, Code 2009, is amended to read as follows:

514H.4 INSURER REQUIREMENTS.

1. An insurer or other person who wishes to issue a certified qualified long-term care insurance policy meeting the requirements of this chapter shall, at a minimum, offer to each policyholder or prospective policyholder a policy that provides both of the following: in Iowa shall conform with all policy guidelines as expressed in the Deficit Reduction Act of 2005 and in Iowa law and rules.

a. Facility coverage, including but not limited to long-term care facility coverage.

b. Nonfacility coverage, including but not limited to home and community-based care coverage.

2. An insurer or other person who complies with subsection 1 may also elect to offer a certified long-term care insurance policy that provides only facility coverage.

Sec. 18. Section 514H.5, Code 2009, is amended to read as follows:

514H.5 ASSET DISREGARD ADJUSTMENT.

1. As used in this section, "asset disregard" means a one dollar increase in the amount of assets an individual who is the beneficiary of a certified qualified long-term care insurance policy and meets the requirements of section 514H.3 may retain under section 249A.35 for each one dollar of benefit paid out under the individual's certified qualified long-term care insurance policy for qualified long-term care services if the policy meets all of the following criteria:

a. If purchased prior to January 1, 2005, provides benefits in an amount equal to at least seventy thousand dollars as computed on January 1, 2005.

b. If purchased on or after January 1, 2005, provides benefits in an amount equal to at least seventy thousand dollars as computed on January 1, 2005, compounded annually by at least five percent, or an amount equal to at least the minimum face amount specified by the commissioner of insurance pursuant to subsection 3, whichever amount is greater.

c. Includes a provision under which the total amount of the benefit increases by at least five percent, compounded annually.

2. When the division responsible for medical services within the department of human services determines whether an individual is eligible for medical assistance under chapter 249A, the division shall make an asset disregard adjustment for any individual who meets the requirements of section 514H.3. The asset disregard shall be available after benefits of the certified qualified long-term care insurance policy have been applied to the cost of qualified long-term care services as required under this chapter.

3. Beginning September 1, 2006, or one year after November 17, 2005, whichever is later, the commissioner of insurance shall issue a bulletin annually on that date, declaring the minimum face amount for policies to qualify for the Iowa long-term care asset disregard incentive program for the following calendar year. In making this determination, the commissioner shall consult with the division responsible for collecting data on average nursing home costs in Iowa. Additionally, in making this determination, the commissioner shall consider the current average daily cost for three years of nursing home care and other relevant information.

Sec. 19. Section 514H.7, subsection 1, Code 2009, is amended to read as follows:

1. If the Iowa long-term care asset disregard incentive program is discontinued, an individual who is covered by a certified qualified long-term care insurance policy prior to the date the program is discontinued is eligible to continue to receive an asset disregard as defined under section 514H.5.

Sec. 20. Section 514H.8, Code 2009, is amended to read as follows:

514H.8 RECIPROCAL AGREEMENTS TO EXTEND ASSET DISREGARD.

The division responsible for medical services within the department of human services may enter into reciprocal agreements with other states to extend the asset disregard under section 514H.5 to Iowa residents who had purchased or were covered by certified qualified long-term care insurance policies in other states.

Sec. 21. Section 514H.9, Code 2009, is amended to read as follows:
514H.9 RULES.

The insurance division of the department of commerce in cooperation with the department of human services shall adopt rules pursuant to chapter 17A as necessary to administer this chapter. ~~The insurance division shall consult with representatives of the insurance industry in adopting such rules. This delegation of rulemaking authority shall be construed narrowly.~~

Sec. 22. Section 515.2, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

515.2 ARTICLES — APPROVAL — BYLAWS.

The articles of incorporation, and any subsequent amendments, of an organization shall be filed with and approved by the commissioner of insurance before filing with the secretary of state. An organization shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of adoption of the bylaws and amendments.

Sec. 23. Section 515.101, subsection 2, paragraph i, Code 2009, is amended to read as follows:

i. ~~The fraud~~ Fraud, concealment, or misrepresentation of the an insured in the procurement of the contract of insurance.

Sec. 24. Section 515B.1, subsection 9, Code 2009, is amended to read as follows:

9. Insurance provided by, ~~or~~ guaranteed by, ~~or reinsured by~~ government.

Sec. 25. Section 515B.2, subsection 4, paragraph b, subparagraph (7), Code 2009, is amended to read as follows:

(7) That would otherwise be a covered claim, but is an obligation to or on behalf of a person who has a net worth greater than that allowed by the guarantee fund law of the state of residence of the claimant person, and which state has denied coverage to that claimant person on that basis.

Sec. 26. Section 518.2, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

518.2 ARTICLES — APPROVAL — BYLAWS.

The articles of incorporation, and any subsequent amendments, of an organization shall be filed with and approved by the commissioner of insurance before filing with the secretary of state. The organization shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of adoption of the bylaws or amendments.

Sec. 27. Section 518.5, Code 2009, is amended to read as follows:

518.5 COMMENCEMENT OF BUSINESS — CONDITIONS.

~~No~~ A county mutual insurance association formed on or after July 1, 2009, shall not issue policies until applications for insurance of not less than fifty one hundred thousand dollars, representing at least fifty two hundred applicants, have been received, and no application for insurance during the period of organization shall exceed two percent of the amount required for organization, any reinsurance taking effect simultaneously with the policy being deducted in determining such maximum single risk.

Sec. 28. Section 518.13, Code 2009, is amended to read as follows:

518.13 PREMIUM CHARGES.

Any association may by action of its board of directors establish premium charges for the purpose of payment of losses and expenses and for the establishment or maintenance of a reserve fund.

~~Any policy shall stand suspended if any default shall be made in the payment of any premium on or before the date specified in a written notice requiring the payment of such premium and mailed to the insured and directed to the insured's last known address not less than thirty~~

~~days prior to such suspension date. Such notice shall specify the amount and due date of the premium. The association shall in no event be liable for any loss occurring during such period of suspension.~~

Sec. 29. Section 518.14, subsection 3, paragraph a, subparagraph (2), Code 2009, is amended by striking the subparagraph.

Sec. 30. Section 518.14, subsection 4, paragraph f, subparagraphs (1) and (2), Code 2009, are amended to read as follows:

(1) Stocks purchased under this lettered paragraph shall not exceed fifty percent of surplus.

~~(2) With the approval of the commissioner, an association may invest any amount in common stocks, preferred stocks, or other securities of one or more subsidiaries provided that after both of the following occur:~~

~~(a) After such investments the association's surplus as regards policyholders will be reasonable in relation to the association's outstanding liabilities and adequate to its financial needs.~~

~~(b) The association owns one hundred percent of the stock of the subsidiary.~~

~~(2) (3) An association shall not invest more than ten percent of its surplus in the stocks of any one corporation.~~

Sec. 31. Section 518.14, subsection 4, paragraph g, Code 2009, is amended to read as follows:

g. HOME OFFICE REAL ESTATE. Funds With the prior approval of the commissioner, funds may be invested in a home office¹ building real estate for the association or a subsidiary, at the direction of the board of directors and with the prior approval of the commissioner of insurance. An The association or subsidiary shall obtain the approval of the commissioner prior to the sale or disposition of home office real estate owned by the association or subsidiary. Effective as to home office real estate acquired on or after July 1, 2009, an association shall not invest more than ~~twenty-five~~ twenty percent of its total admitted assets in such real estate. With the prior approval of the commissioner, an association may exceed the real estate investment limitation to effectuate a merger with, or the acquisition of, another association.

Sec. 32. Section 518.17, Code 2009, is amended to read as follows:

518.17 REINSURANCE.

1. A county mutual insurance association may reinsure a part or all of its coverages written pursuant to this chapter with an association operating under this chapter, or with any other association or company licensed in this state and authorized to write the kinds of insurance enumerated in section 518.11.

2. Reinsurance sufficient to protect the financial stability of the ~~state~~ county mutual insurance association is also required. In general, reinsurance coverage obtained by a county mutual insurance association shall not expose the association to losses from coverages written pursuant to this chapter of more than fifteen percent from surplus in any calendar year. The commissioner of insurance may require additional reinsurance if necessary to protect the policyholders of the association.

Sec. 33. Section 518.19, Code 2009, is amended to read as follows:

518.19 PROOF OF LOSS — REQUIREMENT FOR REPORTING.

~~The insured shall give immediate written notice to the association of any loss for which claim is made and shall then furnish a written proof of loss to the association within sixty days from the time the loss occurred, unless such time is extended in writing by the association. The proof~~ A proof of loss shall contain such information as is required by the policy provisions of the association, which information shall be signed and sworn to by the insured.

Sec. 34. Section 518.22, Code 2009, is amended to read as follows:

518.22 LIMITATION OF ACTION.

~~No A suit or action on a policy for the recovery of any loss shall be begun sooner than forty~~

¹ According to enrolled Act; the phrase "invested in a home office" probably intended

~~days after proof of loss has been given to the association claim shall not be sustainable in any court of law or equity unless all requirements of the policy have been complied with,~~ and unless commenced within twelve months next after the inception of the loss.

Sec. 35. Section 518.23, subsections 1 and 4, Code 2009, are amended to read as follows:

1. CANCELLATION BY INSURED. A policy shall be canceled at any time at the request of the insured ~~upon the return of the policy to the home office of the association, and the payment of all premium charges against such policy.~~

4. NOTICE. Service of notice under subsection 2 or 3 may be delivered in person or mailed to the insured at the insured's post office address as given in or upon the policy, or to such other address as the insured shall have given to the association in writing. A post office department certificate of mailing shall be deemed proof of receipt of such mailing. If in either case the cash payments exceed the amount properly chargeable, the excess shall be refunded to the insured ~~upon the surrender of the policy to the association at its home office.~~

Sec. 36. Section 518.25, Code 2009, is amended to read as follows:
518.25 SURPLUS.

An association organized under this chapter ~~before July 1, 2009,~~ shall at all times maintain a surplus of not less than fifty thousand dollars or one-tenth of one percent of the gross risk in force, whichever is greater. An association organized under this chapter on or after July 1, 2009, shall at all times maintain a surplus of not less than one hundred thousand dollars or one-tenth of one percent of the gross risk in force, whichever is greater.

Sec. 37. NEW SECTION. 518.31 RULEMAKING.

The commissioner may adopt rules pursuant to chapter 17A as necessary for the administration of this chapter.

Sec. 38. Section 518A.8, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

518A.8 ARTICLES — APPROVAL — BYLAWS.

The articles of incorporation, and any subsequent amendments, to the articles of an organization shall be filed with and approved by the commissioner of insurance before filing with the secretary of state. The organization shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of adoption of the bylaws or amendments.

Sec. 39. Section 518A.9, Code 2009, is amended to read as follows:
518A.9 PREMIUM CHARGES.

An association, by action of its board of directors, may establish premium charges for the purpose of payment of losses and expenses and for the establishment or maintenance of a reserve fund.

~~A policy shall stand suspended if any default is made in the payment of any premium on or before the date specified in a written notice requiring the payment of such premium and mailed to the insured and directed to the insured's last known address not less than thirty days prior to such suspension date. The notice shall specify the amount and due date of the premium. The association is not liable for any loss occurring during such period of suspension.~~

Sec. 40. Section 518A.12, subsection 3, paragraph a, subparagraph (2), Code 2009, is amended by striking the subparagraph.

Sec. 41. Section 518A.12, subsection 4, paragraph f, subparagraphs (1) and (2), Code 2009, are amended to read as follows:

(1) Stocks purchased under this lettered paragraph shall not exceed fifty percent of surplus.

(2) With the approval of the commissioner, an association may invest ~~any amount~~ in common stocks, preferred stocks, or other securities of one or more subsidiaries provided that ~~after both of the following occur:~~

(a) ~~After~~ such investments the association's surplus as regards policyholders will be reasonable in relation to the association's outstanding liabilities and adequate to its financial needs.

(b) The association owns one hundred percent of the stock of the subsidiary.

(2) ~~(3)~~ An association shall not invest more than ten percent of its surplus in the stocks of any one corporation.

Sec. 42. Section 518A.12, subsection 4, paragraph g, Code 2009, is amended to read as follows:

g. HOME OFFICE REAL ESTATE. Funds With the prior approval of the commissioner, funds may be invested in a home office² building real estate for the association or a subsidiary, at the direction of the board of directors and with the prior approval of the commissioner of insurance. An The association or subsidiary shall obtain the approval of the commissioner prior to the sale or disposition of home office real estate owned by the association or subsidiary. Effective as to home office real estate acquired on or after July 1, 2009, an association shall not invest more than ~~twenty-five~~ twenty percent of its total admitted assets in such real estate. With the prior approval of the commissioner, an association may exceed the real estate investment limitation to effectuate a merger with, or the acquisition of, another association.

Sec. 43. Section 518A.19, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

518A.19 PROOF OF LOSS.

A proof of loss shall contain such information as is required by the policy provisions of the association, which information shall be signed and sworn to by the insured.

Sec. 44. Section 518A.22, Code 2009, is amended to read as follows:

518A.22 LIMITATION OF ACTION.

No A suit or action on any loss a policy for the recovery of any claim shall not be begun until the date when such loss becomes due in accordance with the articles of incorporation or by-laws of such association and in no event sooner than forty days after such proof has been given to the association and no action can be started after one year from the date such cause of action accrues sustainable in any court of law or equity unless all requirements of the policy have been complied with, and unless commenced within twelve months next after the inception of the loss.

Sec. 45. Section 518A.29, subsections 1 and 4, Code 2009, are amended to read as follows:

1. CANCELLATION BY INSURED. A policy shall be canceled at any time at the request of the insured upon the return of the policy to the home office of the association and the payment of all premium charges against such policy.

4. NOTICE. Service of notice under subsection 2 or 3 may be delivered in person or mailed to the insured at the insured's post office address as given in or upon the policy, or to such other address as the insured shall have given to the association in writing. A post office department certificate of mailing shall be deemed proof of receipt of such mailing. If in either case the cash payments exceed the amount properly chargeable, the excess shall be refunded upon the surrender of the policy to the association at its home office to the insured.

Sec. 46. Section 518A.37, Code 2009, is amended to read as follows:

518A.37 SURPLUS.

An association organized under this chapter before July 1, 2009, shall at all times maintain a surplus of not less than one hundred thousand dollars, or one-tenth of one percent of the gross risk in force, whichever is greater. An association organized under this chapter on or after July 1, 2009, shall at all times maintain a surplus of not less than two hundred thousand dollars or one-tenth of one percent of the gross risk in force, whichever is greater.

Sec. 47. Section 518A.40, subsection 1, Code 2009, is amended to read as follows:

1. Such associations shall pay the same fees for annual reports and annual certificates of

² According to enrolled Act; the phrase "invested in a home office" probably intended

authority as are required to be paid by domestic companies organized and doing business under chapter 515, which certificates shall expire May June 1 of the year following the date of issue.

Sec. 48. NEW SECTION. 518A.56 RULEMAKING AUTHORITY.

The commissioner may adopt rules, pursuant to chapter 17A, as necessary for the administration of this chapter.

Sec. 49. NEW SECTION. 518A.57 POWERS OF MEMBERS.

Members of the association shall have the power to make or amend articles of incorporation at any membership meeting, provided that notice of such proposed addition or amendment has been mailed to each member of the association at least ten days in advance of the meeting in which such proposed action is to be considered, and provided that no such addition or amendment shall become effective until approved by the commissioner of insurance and recorded in the office of the secretary of state.

Sec. 50. Section 519.3, Code 2009, is amended by striking the section and inserting in lieu thereof the following:

519.3 ARTICLES — APPROVAL — BYLAWS.

The articles of incorporation, and any subsequent amendments, of such mutual insurance corporation shall be filed with and approved by the commissioner of insurance before being filed with the secretary of state. A mutual insurance corporation shall file with the commissioner bylaws and subsequent amendments to the bylaws within thirty days of adoption of the bylaws or amendments.

Sec. 51. Section 521.2, subsection 1, Code 2009, is amended to read as follows:

1. One or more domestic mutual insurance companies organized under chapter 491 may merge or consolidate with a domestic or foreign mutual insurance company as provided in this chapter. Sections ~~491.101~~ 491.102 through 491.105 shall not be applicable to a merger or consolidation of a domestic mutual insurance company pursuant to this chapter.

Sec. 52. Section 521A.14, subsection 3, Code 2009, is amended to read as follows:

3. A mutual insurance holding company resulting from the reorganization of a domestic mutual insurance company organized under chapter 491 shall be incorporated pursuant to chapter 491. This requirement shall supersede any conflicting provisions of section 491.1. The articles of incorporation and any amendments to such articles of the mutual insurance holding company shall be subject to approval of the commissioner ~~and the attorney general~~ in the same manner as those of an insurance company.

Sec. 53. Section 523A.202, subsection 1, Code 2009, is amended to read as follows:

1. All funds held in trust pursuant to section 523A.201 shall be deposited in a financial institution within fifteen days ~~after the close of the month a seller receives~~ following receipt of the funds. The financial institution shall hold the funds for the designated beneficiary until released.

Sec. 54. Sections 518A.4, 518A.7, and 518A.23, Code 2009, are repealed.

Sec. 55. IMMEDIATE EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. The section of this Act amending Code section 514G.102, being deemed of immediate importance, takes effect upon enactment, and is retroactively applicable to January 1, 2009, and applicable on and after that date.

Approved May 22, 2009

CHAPTER 146**WATERSHED, LAND USE, AND FLOOD PLAIN MANAGEMENT***H.F. 756*

AN ACT relating to regional watershed, land use, and flood plain management policies, and providing for the establishment of a council.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 28N.1 MISSISSIPPI RIVER PARTNERSHIP COUNCIL — FINDINGS.

The state of Iowa finds and declares all of the following:

1. The preservation, enhancement, and intelligent use of the Mississippi river is in the ecological and economic interests of the citizens of the state of Iowa.
2. The public interest is advanced by the stimulation of sustainable economic development initiatives and watershed management projects by local, state, and federal agencies, local communities, not-for-profit conservation organizations, and private landowners and other stakeholders along the Mississippi river.

Sec. 2. NEW SECTION. 28N.2 MISSISSIPPI RIVER PARTNERSHIP COUNCIL — ESTABLISHMENT AND PROCEDURES.

1. A Mississippi river partnership council is established. The purpose of the council is to be a forum for city, county, state, agriculture, business, conservation, and environmental representatives and other stakeholders to discuss matters relevant to the health, management, and use of the Mississippi river. In furthering its purpose the council may work with local communities to develop local and regional strategies, and make recommendations to appropriate state and federal agencies.

2. The Mississippi river partnership council may consist of all of the following:

- a. One nonvoting person appointed by the governor who shall serve as the chairperson of the council.
- b. Six voting members appointed by the governor, each of whom shall reside in one of the ten Iowa counties bordering the Mississippi river, including all of the following:
 - (1) One member representing soil and water conservation districts.
 - (2) One person representing business.
 - (3) One person representing recreational interests.
 - (4) One person representing conservation interests.
 - (5) One person representing environmental interests.
 - (6) One person representing agricultural interests who is actively engaged in farming.
- c. Ten voting members appointed by county boards of supervisors, one by each of the ten Iowa counties bordering the Mississippi river.
- d. Ten voting members appointed by city councils, one each by the council of the largest Iowa city adjacent to the Mississippi river in each county bordering the river.
- e. Four voting members, each appointed by the heads of the following departments:
 - (1) The department of agriculture and land stewardship.
 - (2) The department of natural resources.
 - (3) The department of economic development.
 - (4) The department of transportation.
- f. Two members of the senate and two members of the house of representatives, serving as ex officio, nonvoting members. The members may be appointed, one each by the majority leader of the senate, after consultation with the president of the senate, and by the minority leader of the senate, and by the speaker of the house of representatives, after consultation with the majority leader of the house of representatives, and by the minority leader of the house of representatives. Members shall receive compensation pursuant to section 2.12.